8.8.96 3/3

SINGLE BENCH

(3) (1)

1851

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

W.P. No. 1916 **of 2005**

PETITIONER Pradeep Kumar Patel, S/o. Shri Laxmi Nidhi Patel, Aged about 34 years, Occupation – Service (Panchayat Karmi), Village – Panchayat Dhanagar, Block, Tahsil & District - Raigarh (C.G.)

VERSUS

RESPONDENTS 1. State of Chhattisgarh
Through Secretary,
Panchayat and Social Welfare
Chhattisgarh Government Raipur.

2. Deputy Director, Panchayat and Social Welfare, District Raigarh

3. Chief Executive Officer, Janpad Panchayat, Raigarh, District – Raigarh

4. Collector, Raigarh (C.G.)

P.R. No. 1895/05
Presented by Shri Vinod Patel
dated 27.04.05

WRIT PETITION UNDER ARTICLE 226 AND 227 OF CONSTITUTION OF INDIA

(123)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(S)...19.16./2005 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

4-7-2006:-

Smt. Hamida Siddique, counsel for the petitioner.

Miss Dipali Pandey, Panel Lawyer for the State/respondent No.1, 2 and 4.

Shri Ravindra Agrawal, counsel for respondent No.3

Shri R.S. Patel, counsel for the intervener.

I.A. No.450/2006, application for permission to intervene, is allowed. Shri R.S. Patel, Advocate, is permitted to intervene.

Return and rejoinder have been filed by the parties.

I have heard learned counsel for the parties for final disposal.

By the instant petition, the petitioner has questioned legality, propriety and correctness of the order dated 6-9-2004, Annexure-P/2 passed by the prescribed authority and Deputy Director, Panchayat and Social Welfare Department whereby the petitioner's appointment as Panchayat Sachiv under Section 69 (1) of the Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 has been taken back and also the order dated 19-4-2005 passed by the Collector dismissing the appeal of the petitioner.

In the reply of respondents, it has been mentioned that the prescribed authority is empowered to notify a Secretary to any Panchayat Karmi under Section 69 (1) of the Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993. The prescribed authority is entitled to amend or alter or change the said notification. After due enquiry and after giving full opportunity of hearing to the petitioner, notification by which the petitioner was notified as Secretary has been withdrawn by the prescribed authority vide order dated 6.9.2004. In para-10, it has been mentioned that the petitioner has been appointed as Panchayat Karmi by Gram Panchayat and it is for the Gram Panchayat to consider the service condition of the

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मामला क्रमांक ·wp.no.1916.05 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

petitioner as Panchayat Karmi and for that Gram Panchayat to take decision. It is incorrect to say that respondent No.4 quashed the order dated 6.9.2004 passed by the prescribed authority.

Learned counsel for the petitioner argued that as far as appointment on the post of Panchayat Secretary is concerned, vide Annexure-P/3 the petitioner was appointed as Panchayat Karmi and in addition to that, he was directed to work as Panchayat Secretary. Learned counsel further argued that as far as the petitioner's removal from the post of Panchayat Secretary is concerned, she is not challenging. The only grievance of the petitioner is that he is not being allowed to work as Panchayat Karmi.

On the other hand, learned counsel for respondents argued that the petitioner has been removed from the post of Panchayat Secretary and not from the post of Panchayat Karmi.

Having heard learned counsel for the parties, I have perused the record. In the petition, the petitioner has simply requested for quashment of the order dated 6.9.2004 whereby the petitioner has been removed from the post of Panchayat Secretary. In-fact, learned counsel for the petitioner submitted that the petitioner has no grievance against his removal from the post of Panchayat Secretary.

Therefore, on this count, I do not find any substance in this petition. The Madhya Pradesh High Court in the matter of **Hariom Singh Rajput Vs. State of M.P. and others** reported in **2002 (3) M.P.H.T. 541** has held that:-

> "Petitioner was appointed as Panchayat Karmi in Gram Panchayat ..... – Additional Charge of Panchayat Secretary was given to him as per the provisions of Section 69 (1) – Because of allegations

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

of misappropriation, etc. the charge of Secretary has been withdrawn- Held- Withdrawal of additional charge in the backdrop and the serious allegations cannot be said to have been arbitrary and illegal – Petitioner's substantive appointment as Panchayat Karmi is still protected – Petition dismissed."

Similar is the situation here. The original appointment of the petitioner on the post of Panchayat Karmi has not been cancelled and learned counsel for the petitioner is not questioning the removal of the petitioner from the post of Panchayat Secretary, therefore, this petition is devoid of merit.

As far as question of contention of the petitioner as Panchayat Karmi is concerned, there is nothing on record which shows that he is not being allowed to work as Panchayat Karmi. There is no averment in the petition filed by the petitioner, as such on this count also no relief can be granted. The writ petition is, therefore, liable to be dismissed and it is hereby dismissed.

Consequently, I.A. No.1852/2006 also stands disposed of.

Sd/-
L.C. Bhadoo
Judge

Barve